United Nations S/2016/453

Security Council

Distr.: General
17 May 2016

Original: English

Letter dated 17 May 2016 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, pursuant to paragraph 16 of Security Council Resolution 1966 (2010).

I would be grateful if the present letter and its annexes could be circulated to the members of the Security Council.

(*Signed*) Theodor **Meron**

16-07957 (E) 270516

Please recycle

Annex I

[Original: English and French]

Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, for the period from 16 November 2015 to 15 May 2016

1. The present report, the eighth in a series, is submitted pursuant to Security Council resolution 1966 (2010), by which the Council established the International Residual Mechanism for Criminal Tribunals, and, in paragraph 16 of that resolution, requested the President and the Prosecutor of the Mechanism to submit reports every six months to the Council on the progress of the work of the Mechanism.[a] In addition, certain information contained in the present report is submitted pursuant to the request of the Council contained in paragraph 20 of its resolution 2256 (2015).

I. Introduction

2. The Security Council, by its resolution 1966 (2010), established the International Residual Mechanism to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including the trial of fugitives who are among the most senior leaders suspected of being primarily responsible for crimes, after the closure of the two Tribunals. Pursuant to resolution 1966 (2010), the Mechanism would operate for an initial period of four years, and subsequently for periods of two years, following reviews of its progress, unless the Council decides otherwise.

3. In accordance with its mandate, and as set forth below, the Mechanism has assumed responsibility for a number of functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including with regard to a range of judicial activities, the enforcement of sentences, the resettlement of acquitted and released persons, the protection of victims and witnesses, and the management of archives.

4. With the closure of the International Criminal Tribunal for Rwanda on 31 December 2015, the Mechanism took over all of the remaining functions of that Tribunal as of 1 January 2016. The Arusha branch of the Residual Mechanism is providing support to the Tribunal's liquidation team as that team concludes its work. While the International Tribunal for the Former Yugoslavia progressively finalizes its work, the Mechanism continues to work closely with that Tribunal's principals and staff to ensure a smooth transition of its remaining functions and services.

5. The Mechanism is guided in its activities by the Security Council's vision of it as a small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions. To this end, the Mechanism continues to draw upon the best practices of and lessons learned from the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and other tribunals, to actively pursue new ways to improve its operations, procedures and working methods, and to maintain

[a] Unless otherwise specified, figures discussed in this report are accurate as at 13 May 2016.

flexibility in staff assignments. By doing so, the Mechanism seeks to maximize effectiveness and efficiency across both branches while maintaining relatively low staffing levels.

6. The Mechanism is mindful of the temporary nature of its mandate. Wherever possible, detailed projections of the duration of residual functions entrusted to the Mechanism are reflected in the present report, in accordance with Security Council resolution 2256 (2015). Such projections are based on available data and, as a consequence, are both limited in nature at this stage of the Mechanism's work and necessarily subject to modification in the event of changed circumstances.

II. Structure and organization of the Mechanism

7. In accordance with its statute (see Security Council resolution 1966 (2010), annex 1), the Mechanism has a single set of principals, a President, a Prosecutor and a Registrar, who have responsibility over two branches, one located in Arusha and the other in The Hague. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming functions derived from the International Criminal Tribunal for Rwanda. The Hague branch commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia.

A. Organs and principals

8. Article 4 of the statute of the Mechanism provides that the Mechanism consists of three organs, the Chambers, the Prosecutor and the Registry, to provide administrative services for the Mechanism.

9. The President of the Mechanism is Judge Theodor Meron, the Prosecutor is Mr. Serge Brammertz and the Registrar is Mr. John Hocking.

10. The expected workload of the respective organs of the Mechanism during the biennium 2016-2017, the anticipated outputs of those organs and the related costs are set forth in detail in the report of the Secretary-General on the budget of the Mechanism (A/70/378). Preliminary information concerning recosting is contained in a further report of the Secretary-General (A/70/606). The General Assembly approved the proposed budget of the Mechanism for the current biennium in resolution 70/243, with certain modifications reflected therein.

B. Judges

11. Article 8 of the statute of the Mechanism provides that the Mechanism shall have a roster of 25 independent judges. During the reporting period, and in accordance with article 10 (2) of the statute, the Secretary-General appointed Judge Seymour Panton to serve as a judge of the Mechanism following the resignation of Judge Patrick Robinson.

C. The branches

12. The Government of the United Republic of Tanzania continues to extend cooperation to the Mechanism in the implementation of the headquarters agreement for the Arusha branch, which entered into force on 1 April 2014 and also applies to the International Criminal Tribunal for Rwanda. The agreement between the United Nations and the Netherlands concerning the headquarters of the Mechanism for the Hague branch was signed on 23 February 2015. Upon its entry into force, it will also apply to the International Tribunal for the Former Yugoslavia.

13. The Arusha branch is currently located at the Arusha International Conference Centre, along with the liquidation team of the International Criminal Tribunal for Rwanda. The Mechanism's new permanent premises in Arusha are under construction and are nearing completion. The Government of the United Republic of Tanzania continues to be strongly supportive of and interested in the project. The Government has graciously completed the permanent road to the site. Connection to a water supply has been completed and connection to electricity is in the final stage. Work on establishing a connection to Internet services is currently ongoing.

14. The Arusha sub-office in Kigali continues to provide protection and support services to witnesses and to lead efforts in tracking the remaining fugitives. Additionally, the Kigali sub-office continues to support the activities of the monitors of the cases referred to Rwanda by the International Criminal Tribunal for Rwanda, pursuant to article 6 of the statute of the Mechanism.

15. The Hague branch of the Mechanism is currently co-located with the International Tribunal for the Former Yugoslavia. The Mechanism has a strong preference for remaining at its current premises after the closure of the Tribunal. Technical discussions and negotiations with the host State authorities, the owners of the premises and possible co-tenants are ongoing.

D. Administration and staffing

16. During the 2014-2015 biennium, administrative services (such as human resources, finance, budget, procurement, logistics, security and information technology services) were to a great extent provided to the Mechanism by both Tribunals, under the coordination of the Registrar of the Mechanism.

17. Towards the end of the 2014-2015 biennium, the ability of the Tribunals to provide this support decreased as their downsizing progressed and the International Criminal Tribunal for Rwanda approached its liquidation phase. The Tribunals and the Mechanism cooperated on the basic requirements for a small, self-standing Mechanism administration, and these requirements were included in the 2014-2015 and 2016-2017 budgets for the Mechanism approved by the General Assembly. The recruitment of administrative staff has occurred in phases as the Tribunals downsize.

18. The transfer of administrative functions to the Mechanism began on 1 January 2014 and is being implemented gradually over the past and current bienniums, in step with the downsizing of the Tribunals and keeping a focus on ensuring efficiency, accountability and consistency.

19. In Arusha, the closure of the International Criminal Tribunal for Rwanda on 31 December 2015 has, as planned, resulted in the full hand-over of security and

logistical functions from the Tribunal to the Mechanism. The Mechanism continues to work closely with the Tribunal liquidation team to ensure that the team receives the required support and to finalize pending administrative matters. For example, at the request of the General Assembly, the Mechanism has taken over responsibility for the payment of pension entitlements to former judges of the Tribunal.

20. The Mechanism is grateful for the support provided by the International Criminal Tribunal for Rwanda to the Mechanism from its inception until the official closure of the Tribunal in December 2015.

21. During this reporting period, and in accordance with the plan for the transfer of administrative functions, the Human Resources, Finance, Procurement, Information Technology, and General Services Sections of the International Tribunal for the Former Yugoslavia continued to perform their functions on behalf of the Tribunal and both branches of the Mechanism. They did so supported by the limited number of Mechanism administration staff, commensurate with the Mechanism's size.

22. Significant efforts have been undertaken during the reporting period by the above-mentioned sections of the International Tribunal for the Former Yugoslavia and the Mechanism to ensure that all contractual arrangements and structures are in place at the Mechanism's Arusha branch to ensure the continued and uninterrupted provision of administrative services following the closure of the International Criminal Tribunal for Rwanda. Implementation of Umoja has been an important task during the reporting period. Both tasks are expected to continue to demand the attention of the Mechanism and the administration of the International Tribunal for the Former Yugoslavia over the months to come.

23. The Mechanism has a vacancy rate of just 7 per cent for its continuous posts. As at 1 May 2016, 164 of the 176 approved continuous posts for the biennium have been filled to carry out the Mechanism's continuous functions. An additional 159 personnel are serving as general temporary assistance to assist with ad hoc needs, including judicial work, litigation and transition issues. These positions are short-term in nature and the number may fluctuate depending on the relevant workload.

24. The Mechanism's continuous and general temporary assistance positions include nationals of 64 States: Albania, Australia, Austria, Belgium, Benin, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Burundi, Cameroon, Canada, China, Croatia, Cuba, Cyprus, Democratic Republic of the Congo, Denmark, Dominican Republic, Ethiopia, Fiji, France, Gambia, Germany, Ghana, Greece, Guinea, Hungary, India, Indonesia, Ireland, Italy, Jamaica, Kenya, Latvia, Lebanon, Liberia, Malaysia, Mali, Nepal, Netherlands, New Zealand, Niger, Nigeria, Pakistan, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Rwanda, Senegal, Serbia, South Africa, Sudan, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Zimbabwe.

25. A total of 59 per cent of Professional staff are female, surpassing the Secretary-General's gender parity goals. In addition, the Mechanism has in place focal points for gender issues; sexual exploitation and abuse; lesbian, gay, bisexual and transgender concerns; and diversity and inclusion issues.

26. Further details concerning the staffing of the Mechanism by division are reflected in the enclosure to the present report.

E. Legal and regulatory framework

27. The Mechanism has established a structure to govern its activities and continues to develop rules, procedures and policies that harmonize and build upon the best practices of both Tribunals.

28. During the reporting period, the judges of the Mechanism adopted an amendment to rule 24 of the Mechanism's Rules of Procedure and Evidence, whereby the designated Duty Judge at the Arusha branch of the Mechanism would assume the functions of the President temporarily if the latter does not remain in office or is unable to carry out the functions of the President. In addition, two new practice directions were promulgated: the practice direction on the procedure for the implementation of rule 110 (B) of the Rules of Procedure and Evidence, and the practice direction on the procedure for the proposal, consideration and publication of amendments to the Rules of Procedure and Evidence of the Mechanism. Furthermore, the Mechanism's Registrar issued a number of new policies, including the remuneration policy for persons representing indigent accused in pre-trial proceedings before the Mechanism, and the remuneration policy for persons representing indigent accused in appeals proceedings before the Mechanism. The Mechanism has also continued to develop and improve the procedures and policies that govern its administrative activities.

III. Judicial activities

29. During the reporting period, the Mechanism has been seized of a number of complex matters and the President and judges have continued to engage in a wide variety of judicial work, issuing 199 decisions or orders. The most significant matters are highlighted below.

30. On 9 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia issued a judgment in the case of *Jovica Stanišić and Franko Simatović*, quashing their acquittals and ordering a retrial on all counts. A Trial Chamber of the Mechanism at the Hague branch is seized of the case. On 18 December 2015, Mr. Stanišić and Mr. Simatović pleaded not guilty at their initial appearance. The Presiding Judge of the Trial Chamber (who also serves on the *Hadžić* case) is present in The Hague and is actively overseeing the pre-trial proceedings and trial planning in this case. During the pre-trial process, the other two judges on the bench perform their work, when their participation is required, remotely. The Presiding Judge held a trial preparation hearing on 19 February 2016 and a status conference will be held on 23 May 2016. It is anticipated that initial projections for the commencement and completion of the trial will be available in the next report following the conclusion of consultations between the judges and the parties concerning the scope and manner of presentation of the evidence.

31. On 24 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia issued its judgment in the case of *Radovan Karadžić*, finding him guilty of genocide, crimes against humanity and violations of the laws and

customs of war, and sentencing him to 40 years of imprisonment. Mr. Karadžić has indicated his intention to appeal his conviction and sentence and has filed before the Appeals Chamber of the Mechanism a motion for extension of time to file his appeal, citing, inter alia, the extraordinary breadth and complexity of the proceedings and judgment in his case. A limited extension of time has been granted, and the parties are ordered to file any notices of appeal in this case no later than 22 June 2016. Pending receipt of the appeal filings, the estimate of three years to completion of the case previously reported in the Mechanism's review report of 20 November 2015 (S/2015/896) remains unchanged.

32. On 31 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia issued its judgment in the case of *Vojislav Šešelj*, finding him not guilty on all counts. The Prosecution filed its notice of appeal on 2 May 2016, arguing that the Trial Chamber erred in law by failing to deliver a reasoned judgment and that it erred in fact by acquitting Mr. Šešelj. The Prosecution requests that the Appeals Chamber revise the trial judgment and find Mr. Šešelj guilty or, in the alternative, that it reverse the judgment of acquittal and order a retrial. The translation of the trial judgment, together with the related judicial opinions, is expected by the end of September 2016, sooner than originally envisaged, which may have a positive impact on the initial projections for completion of the appeal. Pending the full briefing of the appeal, the estimate of three years to completion of the case previously reported in the Mechanism's review report of 20 November 2015 remains unchanged.

33. On 20 November 2015, Jean Uwinkindi appealed against the decision of a Trial Chamber of the Mechanism dismissing his request for the revocation of the referral of his case to Rwanda. While the briefing related to the substance of his appeal was completed in March 2016, Mr. Uwinkindi has filed several requests for admission of additional evidence in respect of which the briefing is pending. It is estimated that this matter will be concluded during the next reporting period.

34. The President of the Mechanism has, pursuant to his authority in the area of enforcement of sentences, issued three decisions in response to requests for early release as well as a number of other decisions and orders. He is currently seized of a number of other confidential enforcement matters. In reaching decisions on certain enforcement matters, the President consults the judges of the sentencing Chamber who are judges of the Mechanism, as applicable.

35. During the reporting period, the President also issued a number of additional decisions and orders, including three decisions related to requests for legal aid. Moreover, the President issued 59 assignment orders, of which 48 were to single judges, 10 to the Appeals Chamber and one to a Trial Chamber.

36. In addition, single judges of the Mechanism adjudicated numerous motions addressing diverse matters, including those relating to the protection of victims and witnesses and allegations of contempt of court. A single judge was further assigned to conduct an inquiry into the circumstances surrounding the death of Zdravko Tolimir while in custody at the United Nations Detention Unit in The Hague. A report to the President regarding the findings of the single judge is forthcoming. The Appeals Chamber also disposed of an appeal from a decision of a single judge and ruled on requests for provisional release.

37. Except as noted above in relation to specific cases and as concerns any appeal from the *Hadžić* case, which has been stayed indefinitely, the projections for the duration of various judicial functions remain unchanged from those set forth in the Mechanism's review report of 20 November 2015. These projections reflect estimates based on factors such as past experience with cases of similar size and scope conducted at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, the scope of the case concerned, activity at the Mechanism to date, and the efficient working methods of the Mechanism Chambers. The projections presume that no extraordinary events will occur during the course of the proceedings that may affect their conduct. There are inherent uncertainties in providing estimates for the length of individual proceedings in the absence of indicative information, such as the scope of any appeal and any possible procedural issues arising in a case that may affect its conduct, and all projections remain subject to periodic updating based on any new information. There are likewise inherent uncertainties in predicting the frequency with which requests for various forms of judicial relief will be submitted in the future.

IV. Victims and witnesses

38. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements (Security Council resolution 1966 (2010), annex 2), the Mechanism is responsible for witness support and protection for the thousands of protected witnesses who have testified in cases completed by the two Tribunals.

39. The Witness Support and Protection Unit continues to be fully operational at both branches of the Mechanism. Consistent with judicial protection orders, and in close collaboration with domestic authorities and other United Nations entities, the Unit continues to provide security for witnesses by undertaking threat assessments and coordinating responses to security related requirements. In addition, the Unit ensures that protected witness information remains confidential and has continued to contact witnesses when orders to seek consent for the rescission, variation or augmentation of witness protective measures are received.

40. The Arusha branch provides ongoing support services to witnesses. Witnesses residing in Rwanda continue to receive medical and psychosocial services, particularly those witnesses experiencing psychotrauma or living with HIV/AIDS, many of whom contracted the virus as a result of crimes committed against them during the genocide.

41. The Hague branch is supporting the efforts of the Victims and Witnesses Section of the International Tribunal for the Former Yugoslavia in finalizing a pilot study, supported by the University of North Texas and partly financed by voluntary contributions, into the long-term impact that testifying before the Tribunal has on witnesses. The pilot study's final report remains on schedule for publication in June 2016. In November 2015, the Arusha branch met with representatives of the University of North Texas to establish the best approach for conducting a similar survey for witnesses residing in Rwanda.

42. The witness protection teams at the two branches continue to exchange best practices for the development of policies, and have established a common information technology platform for their respective witness databases. The

platform became accessible to both branches in November 2015, with the aim of maximizing operational efficiencies across both branches.

43. It is expected that victim and witness protection will continue to be required in future bienniums in the light of the many judicial protection orders that will remain in force unless rescinded or waived.

V. Fugitives and trial and appeal readiness

44. On 1 July 2012, in accordance with Security Council resolution 1966 (2010) and the statute of the Mechanism, the responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda was transferred to the Mechanism. Specifically, the Council urged all States, particularly those where fugitives are suspected to be at large, to further intensify cooperation with and render all necessary assistance to the Mechanism in order to achieve the arrest and surrender of all remaining fugitives as soon as possible.

45. Eight accused individuals who have been indicted by the International Criminal Tribunal for Rwanda remain fugitives. Of the eight fugitives, the Mechanism retains jurisdiction over three: Félicien Kabuga, Augustin Bizimana and Protais Mpiranya. The cases of the other five fugitives have been referred to Rwanda. The arrest and prosecution of these eight remaining individuals remains a top priority for the Mechanism.

46. One fugitive, Ladislas Ntaganzwa, was apprehended in the Democratic Republic of the Congo in December 2015. Pursuant to rule 59 (B) of the Rules of Procedure and Evidence, on 20 March 2016 officials of the Mechanism Registry facilitated the transfer of Mr. Ntaganzwa to the custody of Rwanda, as his case had been referred to Rwanda pursuant to rule 11 *bis* of the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda.

47. Consistent with its commitment to efficiency, the Mechanism continues to ensure that it is prepared to conduct a trial or appeal when a fugitive is apprehended and/or when any ongoing proceedings at the International Tribunal for the Former Yugoslavia result in an appeal or retrial. Pursuant to article 15 (4) of the statute, rosters of qualified potential staff have been populated for the expeditious recruitment of additional staff required to support these judicial functions. Policies for remunerating defence counsel in pre-trial and appeals proceedings were issued, on 22 March and 21 March 2016 respectively. These documents reflect best practices from both the Tribunals. Remuneration policies for trial and contempt proceedings are being finalized, as is a policy for self-represented accused.

VI. Detention facilities

48. The Mechanism has continued to manage and operate the United Nations Detention Facility in Arusha since the transfer of this function on 1 October 2015. There has been no disruption in services provided during or after the transition to the Mechanism. Following the delivery of the International Criminal Tribunal for Rwanda appeal judgment in the *Nyiramasuhuko et al.* case, the Detention Facility currently houses 10 persons who are awaiting their transfer to enforcement States.

49. At the Hague branch, the Mechanism continued to rely during this reporting period on the provision of detention services by the International Tribunal for the Former Yugoslavia at the United Nations Detention Unit.

VII. Cases referred to national jurisdictions

50. Pursuant to article 6 (5) of its statute, the Mechanism is responsible for monitoring cases referred by the two Tribunals to national courts, with the assistance of international and regional organizations and bodies.

51. The cases of three individuals indicted by the International Criminal Tribunal for Rwanda and subsequently apprehended, Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa, have been referred to Rwanda for trial. Mr. Ntaganzwa was arrested during the reporting period, on 9 December 2015, by the authorities of the Democratic Republic of the Congo. The trial in the *Uwinkindi* case concluded in December 2015 and is now on appeal (further information concerning this case is provided in section III above.) The trial in the *Munyagishari* case is ongoing. The *Ntaganzwa* case is in the pre-trial phase. Two additional individuals indicted by the International Criminal Tribunal for Rwanda, Laurent Bucyibaruta and Wenceslas Munyeshyaka, have had their cases referred to France for trial. The *Bucyibaruta* case is still in the investigative phase. In October 2015, French investigative judges dismissed the *Munyeshyaka* case, and an appeal is pending before the *Chambre de l'instruction*.

52. During the reporting period, the Mechanism continued to monitor the cases referred to Rwanda with the assistance of five monitors from the Kenyan Section of the International Commission of Jurists, pursuant to a memorandum of understanding concluded with the Mechanism on 15 January 2015. An interim monitor has been monitoring the two cases referred to France. The public monitoring reports in all five cases are available on the Mechanism's website (www.unmict.org).

53. The Mechanism continues to monitor for any change of status in the *Vladimir Kovačević* case, which was referred by the International Tribunal for the Former Yugoslavia to Serbia in March 2007.

54. The Mechanism's activities in relation to cases referred to national jurisdictions are expected to continue for the duration of such cases.

VIII. Enforcement of sentences

55. In accordance with article 25 of the statute of the Mechanism, the President has assumed jurisdiction over enforcement issues related to the Mechanism and the two Tribunals, including the authority to designate the States in which convicted persons are to serve their sentence, to supervise the enforcement of sentences and to decide on requests for pardon or commutation of sentence.

56. The Mechanism relies on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of Member States of the United Nations that have concluded enforcement-of-sentence agreements or indicated their willingness to accept convicted persons under any other arrangement. The agreements concluded by the United Nations for the two Tribunals remain in force

for the Mechanism. On 13 May 2016, a new agreement between the United Nations and the Government of Mali was signed, providing for the enforcement of sentences pronounced by either the International Criminal Tribunal for Rwanda or the Mechanism. The agreement, which reflects best practices in enforcement, is the first such framework agreement entered into since the commencement of the Mechanism. The Mechanism continues its efforts to secure additional agreements to increase its enforcement capacity for both branches and welcomes the cooperation of States in this regard.

57. As at 1 May 2016, 28 persons convicted by the International Criminal Tribunal for Rwanda are serving their sentences in either Mali (16) or Benin (12). Ten convicted persons are at the United Nations Detention Facility in Arusha, awaiting transfer to an enforcement State. The Mechanism has entered into agreements with the United Nations Development Programme (UNDP) in Mali and Benin with regard to the implementation of the existing agreements on enforcement of sentences. The Mechanism negotiated a similar agreement with UNDP in Senegal, which was executed in May 2016.

58. In addition, 18 persons convicted by the International Tribunal for the Former Yugoslavia are serving their sentences in nine States: Denmark (2), Estonia (3), Finland (2), France (1), Germany (5), Italy (1), Norway (1), Poland (2) and Sweden (1). No finally convicted persons are detained at the United Nations Detention Unit at the moment.

59. On 24 March 2016, the Mechanism arrested at its premises Florence Hartmann, who had been convicted by the International Tribunal for the Former Yugoslavia of contempt on 14 September 2009 and sentenced to a fine of €7,000. The conviction was affirmed by the Tribunal's Appeals Chamber on 19 July 2011. On 16 November 2011, the Appeals Chamber, in light of Ms. Hartmann's failure to pay the fine, converted her sentence to seven days' imprisonment. Following her arrest on United Nations premises, Ms. Hartmann was detained at the Detention Unit and was then granted early release on 29 March 2016.

60. The Mechanism has also been working, in coordination with national authorities, to address the recommendations of the relevant inspecting bodies charged with examining the conditions of detention in enforcement States. The Mechanism continues to make steady progress in Mali on implementing the recommendations of an independent prison management expert engaged by the Mechanism.

61. Throughout the reporting period, the Mechanism continued to closely monitor the security situation in Mali and received advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali.

62. The eight cells refurbished to international prison standards by the International Criminal Tribunal for Rwanda at a prison in Senegal have been handed over by the Tribunal to the Government of Senegal. The Mechanism is working with UNDP in Senegal on the final procurement of items required for the cells to be fully operational to enforce sentences.

63. It is expected that the supervision of the enforcement of sentences, carried out under the authority of the President, will be required in future bienniums until the last prison sentence has been served, unless the Security Council decides otherwise in accordance with rule 128 of the Rules of Procedure and Evidence. It is recalled that the longest sentence remaining to be served is life imprisonment.

IX. Relocation of acquitted and released persons

64. Following the delivery of the final judgment by the International Criminal Tribunal for Rwanda in the case of *Nyiramasuhuko et al.* in December 2015 and a subsequent decision granting early release, there are currently 14 acquitted and released persons awaiting relocation in Arusha. It continues to be a priority for the Mechanism to find sustainable solutions to the situation of these acquitted and released persons.

65. In line with the approach consistently followed to date of seeking consensual relocation outcomes, the Mechanism has engaged bilaterally over the reporting period with States that have indicated willingness to accept, in principle, one or more of these persons. It must nevertheless be acknowledged that, in view of the totality of experience to date and the numbers of individuals concerned, it appears increasingly unlikely that this approach will lead to a comprehensive solution for all individuals concerned within appropriate time frames. It may therefore become necessary in due course to consider, in consultation as appropriate with the Security Council and other relevant stakeholders, potential alternative approaches to this significant issue. In the meantime, the Mechanism remains grateful to the Security Council and the international community for their ongoing support of relocation efforts in order to resolve this longstanding humanitarian challenge which, with the passage of time, becomes increasingly urgent both for the persons concerned and for the Mechanism.

66. Given its mandate to operate as a small and lean institution, the Mechanism is limited in the amount of assistance it may provide to acquitted and released individuals. In view of this scope of responsibilities, the Mechanism is undertaking a process to review the level of support provided to acquitted and released persons with a view to achieving greater efficiencies and cost-effectiveness, as well as more comparable levels of support irrespective of the State in which such persons may have been released.

67. The Mechanism notes that this humanitarian challenge will subsist until such time as all acquitted and released individuals are appropriately relocated.

X. Archives and records

68. In accordance with article 27 of its statute, the Mechanism has responsibility for the management, including preservation and access, of the archives of the Mechanism and the two Tribunals. Pursuant to article 27 (2) of the statute, the archives of the two Tribunals are to be co-located with the respective branches of the Mechanism.

69. The archives of the Tribunals include materials concerning investigations, indictments and court proceedings; work relating to the detention of accused persons, the protection of witnesses and the enforcement of sentences; and documents from States, other law enforcement authorities, international and non-governmental organizations and the general public. The materials consist of documents, maps, photographs, audiovisual recordings and objects.

70. The Archives and Records Section of the Mechanism has been tasked with preserving these materials and facilitating the widest possible access to them, while

ensuring the continued protection of confidential information, including information concerning protected witnesses.

71. During the reporting period, the Archives and Records Section received the last transfer of inactive records from the International Criminal Tribunal for Rwanda and has continued to work in close cooperation with the Tribunal's liquidation team on the preparation and transfer of records that remain in active use by the liquidation team. Approximately 94 per cent of the Tribunal's physical records of long-term or permanent value designated for transfer to the Mechanism Registry have been received to date. This includes records in paper, audiovisual and artefact format. In addition, the transfer of all the Tribunal's digital records designated for retention by the Mechanism has been completed.

72. In The Hague, the International Tribunal for the Former Yugoslavia has transferred over 30 per cent of its anticipated volume of physical records to the Mechanism. Substantial quantities of records are still being prepared for transfer, and the training of managers and staff is ongoing. The additional repository assumed by the Archives and Records Section in the last reporting period is fully operational and provides an additional 1,450 linear metres of storage. Over 260 linear metres of records have been re-located and transferred to the repository since November 2015. The total amount of records in the Section's repositories is now over 1,000 linear metres.

73. The Archives and Records Section has further developed plans for moving the archives and library of the International Criminal Tribunal for Rwanda to the new premises in Arusha, and continues to provide technical advice and support in the implementation of the services required for the management and maintenance of the archives facility in the new premises. The Section has acquired and is implementing a digital preservation system, including a digital repository for the secure storage of digital records and archives.

74. In December 2015, the Mechanism launched a new public interface to access and search judicial records of the International Criminal Tribunal for Rwanda and the Mechanism on its website. Over 25,000 public judicial records are currently available and the Archives and Records Section continues to increase this number on a daily basis. In addition, the Section has facilitated on-demand access to over 750 public judicial records for external researchers during the reporting period. It also contributed to the development of the first online public exhibition of archives of the two Tribunals, which was launched on the Mechanism's website on 5 April 2016.

75. The Section continues to lead or contribute to the development of policies as well as record-keeping systems for the Mechanism in the interest of enhancing operational efficiency and effectiveness. Specifically, during the reporting period, significant support has been provided to the development and implementation of the database to be used for the management of all judicial records of the two Tribunals and the Mechanism.

76. As the archives are by definition records deemed to be of long-term to permanent value, their management will have to be ensured accordingly.

XI. Cooperation of States

77. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate in relation to the investigation and prosecution of persons covered under the Statute, as well as with orders and requests for assistance in relation to cases before the Mechanism. The Mechanism, like the two Tribunals, is dependent upon the cooperation of States.

78. The arrest and surrender of the remaining fugitives are a priority of the Mechanism. As described above, the Mechanism requires the full cooperation of States in relation to the ongoing fugitive-tracking operations being conducted by the Prosecutor, and it continues the practice of the International Criminal Tribunal for Rwanda by calling for the assistance of relevant States in this respect. As also described above, the Mechanism relies on the cooperation of States for the enforcement of sentences.

79. The Mechanism continues to promote communication and cooperation with the Governments of Rwanda and the States of the former Yugoslavia. During the reporting period, the Mechanism has continued to discuss areas of mutual interest with the authorities of Rwanda. Representatives of the Mechanism, including the President, have also engaged with government officials and met with victims groups from the States of the former Yugoslavia.

XII. Assistance to national jurisdictions

80. The Mechanism routinely receives requests from national authorities or parties to national proceedings for assistance in relation to domestic proceedings concerning individuals allegedly implicated in the genocide in Rwanda or the conflicts in the former Yugoslavia. Furthermore, during the reporting period, the Mechanism received and considered requests to vary the protective measures of witnesses and disclose their testimony and evidence (as discussed in section III above). Comprehensive information and guidance for those who wish to request assistance are available on the Mechanism's website.

81. The data concerning requests for assistance submitted to both branches of the Mechanism was centralized during the reporting period into one repository. The branches continue to exchange best practices for the development of policies and training programmes with a view to maximizing operational efficiencies and ensuring that the Mechanism provides effective assistance to national jurisdictions.

82. It is expected that these activities will continue for a considerable time over the next bienniums.

XIII. External relations

83. During the reporting period, a wide range of efforts was undertaken to increase the Mechanism's visibility and to make its work more accessible to audiences worldwide.

84. The External Relations Office at the Hague branch continued to support the Mechanism in strengthening public understanding of the Mechanism's mandate and

structure, including by providing presentations on those topics to individuals visiting the premises of the International Tribunal for the Former Yugoslavia and the Mechanism, disseminating timely information on significant Mechanism-related events (such as the beginning of the retrial in the *Stanišić and Simatović* case and the apprehension and transfer of one of the fugitives indicted by the International Criminal Tribunal for Rwanda), and producing additional information materials. At the same time, the Office monitored and provided regular briefings to the President and Registrar on relevant political developments both in Europe and in East Africa, as well as on significant developments in the field of international justice.

85. The External Relations Office also continued to expand and maintain the Mechanism's website, which has surpassed 200,000 page views, its reach growing exponentially over the reporting period. As noted above, an interactive online exhibition, the first of its kind, was launched in April 2016 and enables the general public to contextualize, access and understand the value of the archives under the Mechanism's custody. The exhibition has garnered over 2,700 page views since it was launched.

86. A wide variety of informational products were also published, both online and in print. Among these are materials profiling the Mechanism's key figures and cases. New web pages and leaflets were created, giving audiences a quick and easy way to access content outlining details of the Mechanism's essential functions.

87. The External Relations Office has also continued to ensure the transition of the website of the International Criminal Tribunal for Rwanda to the Mechanism's environment, so as to present it as a legacy website for generations to come. The Office continued its daily management of the website of the International Tribunal for the Former Yugoslavia, in addition to its work on the Mechanism's website.

88. The Mechanism continues to provide library services. The Arusha library, which is one of the premier international law research resources in East Africa, continues to be open to researchers and members of the public from the Great Lakes region and beyond. During the reporting period, over 480 persons, both internal and from various external organizations, visited and received presentations on the Mechanism library in Arusha. The library processed an average of 457 requests, including research requests and loans, on a monthly basis.

89. The latest edition of the *International Criminal Tribunal for Rwanda Special Bibliography* was issued in November 2015. It will continue to add value to the legacy of the International Criminal Tribunal for Rwanda by assisting Mechanism staff and researchers to identify relevant resources. Work is currently under way to prepare the 2016 edition of the *Special Bibliography*, which will include references to resources related to both the Tribunals.

XIV. Audit reports of the Office of Internal Oversight Services

90. During the reporting period, the Mechanism has continued to benefit from regular audits by the Office of Internal Oversight Services of the Secretariat and to implement recommendations of the Office. In December 2015, the Office officially closed two recommendations based on information submitted by the Mechanism during the previous reporting period.

91. The Mechanism also took steps in relation to the audit by the Office of Internal Oversight Services concerning the provision of assistance to national jurisdictions by the International Tribunal for the Former Yugoslavia and the Mechanism, issued in November 2015. The auditors found that the coordinating systems, comprehensive regulatory framework and the procedure for reviewing access to systems when staff members are transferred were satisfactory. Two recommendations were made that are currently under implementation by the Mechanism. The first of these pertained to the development of a consolidated, comprehensive database of requests for assistance; a prototype of this database has been developed and is being tested, and once approved will be rolled out. The second recommendation pertained to the encryption of material transmitted electronically to national authorities; the Registry is undertaking a wider review of transmission methods and expects to close the recommendation by October 2016.

92. A second audit report, issued during the reporting period in February 2016, concerned the construction of the new Mechanism facility in Arusha. The audit focused on the adequacy and effectiveness of the Mechanism's governance, risk management and control processes in providing reasonable assurance regarding effective management of the construction of the new facility. The overall results were assessed as "satisfactory". Two recommendations were made, and both were closed before the report was published.

XV. Conclusion

93. The Mechanism continues to adhere to the mandate established by the Security Council in resolution 1966 (2010). In achieving its goals, the Mechanism benefits from support from the International Tribunal for the Former Yugoslavia, the Office of Legal Affairs and the Department of Management of the Secretariat, the United Republic of Tanzania, the Netherlands, Rwanda and States of the former Yugoslavia, and from individual Member States of the United Nations. This support is crucial to the continued success of the Mechanism, which maintains its focus on carrying out its mandate in an efficient and cost-effective manner.

Enclosure

[Original: English and French]

Staff of the International Residual Mechanism for Criminal Tribunals[a]

A. Number of staff by branch and organ

Category	*Arusha branch*	*Hague branch*	*Office of the Prosecutor*	*Registry*[b]	*Mechanism overall*
All staff	155	168	59	264	323
Staff on continuous posts	108	56	26	138	164
Staff on general temporary assistance positions	47	112	33	126	159
International (Professional and Field Service)	82	87	44	125	169
Local (General Service)	73	81	15	139	154

[a] The data in the tables below represents the number of staff on board as at 1 May 2016. It does not represent the full complement of approved posts and general temporary assistance funding. Such information can be found in the Mechanism budget for the 2016-2017 biennium (A/70/378) and the General Assembly resolution thereon (70/243).

[b] Registry staff includes: Office of the President, Chambers (excluding judges), Immediate Office of the Registrar, Archives and Records Section, Witness Support and Protection Unit, United Nations Detention Unit and United Nations Detention Facility, Office of Legal Aid and Defence, Public Relations, Translation/language services, Certification project, Administration, and Security.

B. Geographical representation

	Number of staff			
	Arusha branch	*Hague branch*	*Mechanism overall*	*Mechanism overall (percentage)*
Number of nationalities represented	42	45	64	
All staff				
Africa	114	5	119	37
Asia-Pacific	10	19	29	9
Eastern Europe	5	37	42	13
Latin America and the Caribbean	1	3	4	1
Western European and other States	25	104	129	40
International staff (Professional and Field Service)				
Africa	41	3	44	26
Asia-Pacific	10	14	24	14
Eastern Europe	5	16	21	12
Latin America and the Caribbean	1	2	3	2
Western European and other States	25	52	77	46

	Number of staff			
	Arusha branch	*Hague branch*	*Mechanism overall*	*Mechanism overall (percentage)*
Local (General Service)				
Africa	73	2	75	49
Asia-Pacific	–	5	5	3
Eastern Europe	–	21	21	14
Latin America and the Caribbean	–	1	1	1
Western European and other States	–	52	52	34

States represented in the staff of the Mechanism

Africa: Benin, Burundi, Cameroon, Democratic Republic of the Congo, Ethiopia, Gambia, Ghana, Guinea, Kenya, Liberia, Mali, Niger, Nigeria, Rwanda, Senegal, South Africa, Sudan, Uganda, United Republic of Tanzania and Zimbabwe.

Asia-Pacific: Australia, China, Cyprus, Fiji, India, Indonesia, Lebanon, Malaysia, Nepal, New Zealand, Pakistan, Philippines, Republic of Korea and Turkey.

Eastern Europe: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Hungary, Latvia, Poland, Romania, Russian Federation, Serbia, the former Yugoslav Republic of Macedonia and Ukraine.

Latin America and the Caribbean: Bolivia (Plurinational State of), Cuba, Dominican Republic and Jamaica.

Western European and other States: Austria, Belgium, Canada, Denmark, France, Germany, Greece, Ireland, Italy, Netherlands, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and United States of America.

C. Gender

	Number of staff			
	Arusha branch	*Hague branch*	*Mechanism overall*	*Mechanism overall (percentage)*
Professional staff (all levels)				
Male	25	27	52	41
Female	15	60	75	59
Professional staff (P-4 and above)				
Male	13	9	22	50
Female	3	19	22	50

Annex II

[Original: English and French]

Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Serge Brammertz, for the period from 16 November 2015 to 15 May 2016

I. Overview

1. The Prosecutor submits this eighth progress report pursuant to Security Council resolution 1966 (2010), covering developments between 16 November 2015 and 15 May 2016.

2. The reporting period marked the beginning of an intense period of trial and appeal work for the Office of the Prosecutor. Pre-trial proceedings in the *Stanišić and Simatović* case have now commenced, following the re-trial ordered by the Appeals Chamber of the International Tribunal for the Former Yugoslavia on 15 December 2015. The Office also commenced work on appeal proceedings in two cases (*Karadžić* and *Šešelj*) following the issuance of trial judgments by the Tribunal on 24 March and 31 March 2016, respectively. In addition to this trial and appeal activity in The Hague, the Office has been undertaking a high volume of case-related litigation at both branches. Finally, the Office continued its significant efforts to locate and arrest the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda.

3. The reporting period also marked the beginning of a significant new effort to further streamline operations and reduce costs by effectively integrating the staff and resources of the Office of the Prosecutor of the Mechanism with those of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia. Since 1 March 2016, the two Offices have been implementing a "one office" approach that will allow staff and resources to be flexibly deployed across both institutions in "double-hatting" arrangements as and when needed based on operational requirements, in accordance with the Security Council's directions set forth in resolution 1966 (2010). Flexible management of all Prosecution staff and resources during the remaining period of co-existence between the Mechanism and the International Tribunal for the Former Yugoslavia is expected to yield some overall cost savings (for example, by reducing recruitment exercises) while also significantly improving the capacity of the two Offices to respond to any new developments within existing resources. The "one office" approach also provides an important tool to address the ongoing impact of staff attrition.

4. During the reporting period, the Office of the Prosecutor focused on three priorities: (a) locating and arresting fugitives; (b) the expeditious completion of trials and appeals; and (c) assistance to national jurisdictions. The Office continues to rely on the full cooperation of States to successfully carry out its mandate in these areas. During the reporting period, the Prosecutor visited: (a) Kigali, on 20 and 21 April 2016 to discuss cooperation with the Minister of Justice, the Prosecutor General and the Chief Justice of the Supreme Court; (b) Zagreb, on 28 and 29 April 2016 to discuss cooperation with the Minister for Foreign Affairs, the Minister of Justice and the State Attorney; and (c) Sarajevo on 12 and 13 May 2016 to discuss cooperation with the Presidency, the Minister of

Justice, the Chief Prosecutor and the President of the State Court. The Prosecutor also visited Dar es Salaam, United Republic of Tanzania, from 11 to 13 April 2016 to discuss cooperation and support provided by the host State with the Vice President, the Minister for Foreign Affairs, the Minister of Justice, the Chief Justice of the Supreme Court and the Chief Secretary to the President. The Prosecutor will visit Paris on 18 May 2016 to discuss referred cases with relevant interlocutors.

II. Fugitives

5. On 9 December 2015, Ladislas Ntaganzwa, one of the nine remaining fugitives indicted by the International Criminal Tribunal for Rwanda, was located and arrested by the authorities of the Democratic Republic of the Congo acting on an international arrest warrant issued by the Mechanism. On 20 March 2016, Ntaganzwa was successfully transferred to Rwanda, where he will now be brought to trial. The Office of the Prosecutor welcomes the positive assistance and cooperation provided by the Democratic Republic of the Congo, as well as the personal involvement of the Minister of Justice in this matter.

6. With the arrest and transfer of Ntaganzwa, eight fugitives indicted by the Tribunal for Rwanda remain at large. During the reporting period, the Office of the Prosecutor continued its efforts to locate and arrest the three fugitives whose cases will be tried by the Mechanism. Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. The Office also continued to search for information on the whereabouts of the five fugitives who are currently expected to be brought to trial in Rwanda following their arrest: Fulgence Kayishema, Charles Sikubwabo, Aloys Ndimbati, Ryandikayo and Phénéas Munyarugarama.

7. The Office of the Prosecutor is presently focused on reviewing existing leads to determine whether they should be further pursued or closed, and has begun identifying potential new leads to be followed up in the coming months. The Office maintained its public communication efforts. The Office is further conducting an overall review of its tracking efforts to date to ensure that appropriate priorities are in place and that tracking operations are directed to achieving those priorities. As part of this review, the Prosecutor has redeployed resources, from within existing capacity, to further support tracking efforts. This will enable the staff of the tracking team to more fully focus their efforts on identifying and developing new leads, while also improving the Office's ability to identify support networks and freeze financial assets.

8. State cooperation will be essential to successfully track and arrest the remaining fugitives. In particular, the Office of the Prosecutor must rely on the cooperation of State authorities to conduct arrest operations. The Prosecutor and staff will seek to visit relevant African and European States in the second half of the year to discuss support for the Office's efforts to track fugitives and future cooperation in conducting arrests. At the same time, the Office notes that incentives, and potentially sanctions, play an important role in ensuring cooperation. The Office is grateful for the continued support of programmes such as the War Crimes Rewards Program, which has led to the arrest and transfer of fugitives to the two Tribunals. The Office of the Prosecutor hopes that the international community will also consider how it can provide incentives for States to cooperate as well.

III. Trials and Appeals

A. Overview

9. During the reporting period, the Office of the Prosecutor commenced its first trial and appeals proceedings arising out of cases transferred from the International Tribunal for the Former Yugoslavia pursuant to the Mechanism statute and transitional arrangements. At The Hague, the Office will be undertaking one trial (*Stanišić and Simatović*) and two appeals (*Karadžić* and *Šešelj*). This ad hoc judicial activity is temporary in nature. It is expected that the Office will further conduct appeal proceedings, if any, in the *Mladić* case following the anticipated rendering of the trial judgment in November 2017.

10. The Office of the Prosecutor is committed to exploring all reasonable measures within its control to expedite the completion of these trial and appeal proceedings, while recognizing that ultimately it is for the respective Chambers to manage the proceedings and set appropriate deadlines for the parties and themselves. The Office looks forward to receiving projections from the Chambers as to the expected timelines for the ongoing cases.

B. Update on the progress of trials

11. On 15 December 2015, the Appeals Chamber partially granted the appeal of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia in the *Stanišić and Simatović* case, revoked the Trial Chamber's judgment and ordered the case to be retried on all counts. Pursuant to the Mechanism statute and transitional arrangements, this retrial is being conducted by the Mechanism.

12. The Office of the Prosecutor has commenced intensive pre-trial preparations in this case, including identifying potential key issues for the re-trial, contacting witnesses and organizing documentary evidence. Access to evidence and witnesses from Bosnia and Herzegovina, Croatia and Serbia remains essential for the Office to expeditiously and effectively present its case. The Office expects the full cooperation of these States with its requests for assistance.

13. The Pre-Trial Chamber has not yet made a decision on the opening date for the re-trial, but one is expected soon. At the status conference held in February 2016, the Office of the Prosecutor proposed that the re-trial commence in October 2016, while the defence proposed February or March 2017. The parties are also awaiting the workplan from the Pre-Trial Judge, which will address critical issues bearing on the expected commencement date, including the manner in which evidence will be presented and deadlines for important filings such as pre-trial briefs and witness lists.

C. Update on the progress of appeals

14. On 24 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Radovan Karadžić for genocide, crimes against humanity and war crimes, and sentenced him to a term of imprisonment of 40 years. The defence has indicated that it will file an appeal. The Office of the

Prosecutor is currently reviewing the trial judgment to determine whether there are grounds for appeal. At the request of the defence, the Pre-Appeal Judge of the Mechanism granted an extension of 60 days for the filing of notices of appeal in this case, which are thus now due no later than 22 June 2016.

15. On 31 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia, by majority, acquitted Vojislav Šešelj on all counts of the indictment. The Office of the Prosecutor announced its intention to appeal the judgment in a public statement on 6 April 2016, and filed its notice of appeal on 2 May 2016. In its notice of appeal, the Office put forward two grounds of appeal. The first avers that the Trial Chamber erred in law by failing to deliver a reasoned judgment, as the Trial Chamber failed to provide sufficient reasons for key conclusions, failed to address Prosecution arguments and clearly relevant evidence, failed to adjudicate essential issues in the case, and did not explain the substantive law it applied. The second argues that the Trial Chamber erred in fact by acquitting the accused, as no reasonable trial chamber could have found, on the basis of the entirety of the evidence, the accused not guilty of all of the charges. The Office contends that the Appeals Chamber should correct these errors.

D. State cooperation with the Office of the Prosecutor

16. The Office of the Prosecutor continues to rely on the full cooperation of States to successfully complete its mandate, as set out in article 28 of the Mechanism statute. The Office's access to documents, archives and witnesses is critical for ongoing Mechanism trial and appeal proceedings.

17. During the reporting period, cooperation by Serbia, Croatia, Bosnia and Herzegovina and Rwanda with the Office of the Prosecutor remained satisfactory. The Office anticipates that it will require assistance in relation to ongoing trial and appeal proceedings, including the provision of evidence and access to witnesses. The Office fully expects that its requests for assistance will be promptly and adequately processed.

IV. National War Crimes Prosecutions

A. Monitoring of referred cases

18. Five cases referred by the Mechanism under rule 14 or by the International Criminal Tribunal for Rwanda under rule 11 *bis* are currently being processed in the national courts of France and Rwanda. The cases against Wenceslas Munyeshyaka and Laurent Bucyibaruta were referred to France in 2007, and have not yet been completed. The cases against Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa were referred to Rwanda in 2012 and 2013, and proceedings are ongoing.

1. Cases referred to France

19. Wenceslas Munyeshyaka, an ordained Catholic priest, was indicted by the International Criminal Tribunal for Rwanda in July 2005 on four counts of genocide, rape as a crime against humanity, extermination as a crime against

humanity and murder as a crime against humanity. As previously reported, the investigation by the authorities of France in the *Munyeshyaka* case has not successfully resulted in these charges being brought against the suspect. On the recommendation of the Paris Public Prosecutor, the *Juge d'instruction* on 2 October 2015 confirmed the *non-lieu* dismissal of the case. Civil parties have appealed the ruling, and a decision on the appeal is expected in the near future.

20. Laurent Bucyibaruta, *préfet* of Gikongoro Prefecture, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts of direct and public incitement to commit genocide, genocide, complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The investigation by the authorities of France remains under way. Based on available information, it is understood that investigations are expected to be completed in the near future.

21. During the Prosecutor's visit to Kigali, the authorities of Rwanda expressed their significant concern with the status of the two cases referred to France. The Prosecutor committed to raise the status of these cases with the relevant authorities in France and obtain their assessment of the work and the challenges that must be surmounted. He is scheduled to visit Paris on 18 May 2016 for this purpose.

2. Cases referred to Rwanda

22. Jean Uwinkindi, a pastor in the Pentecostal Church, was indicted by the International Criminal Tribunal for Rwanda in September 2001 on three counts of genocide, conspiracy to commit genocide and extermination as a crime against humanity. He was transferred to Rwanda for trial on 19 April 2012, and the trial commenced on 14 May 2012. On 30 December 2015, the High Court issued its trial judgment, convicting Mr. Uwinkindi and sentencing him to life imprisonment. The defence will now have the opportunity to appeal that judgment.

23. Separately, in litigation before the Mechanism, the Office of the Prosecutor is opposing Uwinkindi's request to revoke the referral of his case to Rwanda. The Trial Chamber denied this request on 22 October 2015. Proceedings on the defence's appeal against the Trial Chamber's decision are now under way.

24. Bernard Munyagishari, a local leader in the *Mouvement Révolutionaire National pour le Développement* party, was indicted by the International Criminal Tribunal for Rwanda in September 2005 on five counts of conspiracy to commit genocide, genocide, complicity in genocide, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 24 July 2013. His case remains in the pre-trial phase, with a number of recent delays attributable to ongoing disputes and litigation regarding assigned defence counsel.

25. Ladislas Ntaganzwa, *bourgmestre* of Nyakizu *Commune*, was indicted by the International Criminal Tribunal for Rwanda in June 1996, with the amended indictment charging him with five counts of genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 20 March 2016.

26. Both Mr. Uwinkindi and Mr. Munyagishari have brought substantial litigation before the Mechanism while the main proceedings are under way in Rwandan courts against them. Both referred persons have repeatedly requested the Mechanism to

revoke their referrals or stay the Rwandan proceedings, which have been consistently denied. In litigation before the Mechanism, both have made extensive, detailed submissions on technical case-related matters that are under the competence of the Rwandan judiciary and authorities, such as the timing of pleadings, funding for defence counsel and conditions of detention.

B. Assistance to national jurisdictions

27. With the closure of the International Criminal Tribunal for Rwanda and the nearing completion of the mandate of the International Tribunal for the Former Yugoslavia, further accountability for crimes committed in Rwanda and the former Yugoslavia now depend on national justice sectors. In the affected countries, the effective prosecution of the crimes committed is fundamental to build and sustain the rule of law, establish the truth of what occurred and promote reconciliation. Third-party states are also undertaking prosecutions against suspects who are present in their territory for crimes committed in Rwanda and the former Yugoslavia. National justice is now essential to achieve greater justice for the victims of horrific atrocities.

28. The Office of the Prosecutor places a high priority on monitoring, supporting and advising national judicial authorities prosecuting war crimes cases arising out of the conflicts in Rwanda and the former Yugoslavia. The Office possesses invaluable evidence and expertise that can greatly benefit national justice efforts. The Yugoslavia-related evidence collection comprises more than 9 million pages of documents and thousands of hours of audio and video records, most of which were not introduced into evidence in any proceedings of the International Tribunal for the Former Yugoslavia and thus are only available from the Office of the Prosecutor. The Rwanda-related evidence collection comprises more than 1 million pages of documents.

29. During the reporting period, the Office of the Prosecutor of the Mechanism continued to receive a high volume of requests for assistance from national judiciaries and international organizations. The Office is responsible for requests for assistance in relation to cases completed by the two Tribunals, while the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia retains responsibility for requests for assistance in relation to ongoing cases before that Tribunal. For ease of reporting, information is provided below on the total number of requests for assistance received by both Offices.

30. In relation to the former Yugoslavia, the Office of the Prosecutor received 128 requests for assistance from six Member States and two international organizations; 99 requests for assistance were submitted by authorities in Bosnia and Herzegovina, 9 were from Serbia and 12 were from Croatia. In addition, the Office filed submissions in relation to 15 requests for variation of witness protective measures, all of which concerned proceedings in Bosnia and Herzegovina.

31. In relation to Rwanda, the Office of the Prosecutor received 11 requests for assistance from four Member States and one international organization. None of the requests for assistance were submitted by authorities in Rwanda. In addition, the Office filed submissions in relation to one request for variation of witness protective measures, which concerned a proceeding in France.

32. Following the arrest of Ladislas Ntaganzwa, the Office of the Prosecutor continued to provide assistance to the authorities of Rwanda in preparation for this trial. As the Prosecutor confirmed to the Prosecutor-General of Rwanda, the Office is committed to supporting prosecutors in Rwanda in successfully conducting this case, and will endeavour to assist in providing evidence and case-specific expertise when requested. The Office also continued to provide support to authorities in Rwanda in locating the five fugitives indicted by the International Criminal Tribunal for Rwanda whose cases have been transferred to Rwanda for prosecution.

C. Capacity-building

33. During the reporting period, the Office of the Prosecutor continued its efforts, within existing resources, to build capacity in national judiciaries prosecuting war crimes. The Office continued to participate, subject to operational requirements, in training programmes for personnel working on war crimes cases.

34. As a follow-up to training for national prosecutors in the former Yugoslavia on drafting motions to vary witness protection measures, the Office requested and obtained public redacted versions of a number of relevant decisions. These decisions have now been shared with national prosecutors to assist them in preparing their motions.

35. During his visits to Dar es Salaam and Kigali, the Prosecutor discussed with interlocutors the need to improve the capacity of national judiciaries to prosecute war crimes. Officials in both countries responded very positively. Discussions will continue to identify how national judiciaries in the region can benefit from the Office of the Prosecutor's legacy to further improve their capacity.

V. Other residual functions

36. During the reporting period, the Office of the Prosecutor continued to perform its responsibilities in respect of other residual functions.

37. As previously reported, the volume of non-trial and appeal litigation in the Mechanism continues to be higher than previously expected. One noticeable trend has been the many attempts by convicted persons to obtain review and ultimately revocation of their convictions entered by the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia. These defence efforts generate extensive litigation in seeking access to evidence or the files of other cases in order to identify "new" evidence in support of a review motion, and to the review motions themselves. The Office must carefully monitor and respond to such motions in order to ensure the integrity of the convictions previously obtained.

38. The Office of the Prosecutor also continued to make submissions when invited in relation to the enforcement of sentences of persons convicted by the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, particularly on requests by convicted persons for early release.

39. During the reporting period, the Office of the Prosecutor completed the process of assuming responsibility for all active records and evidence collection of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda. The

electronic evidence database, the network drives and the vault containing the physical evidence and material of the Office of the Prosecutor of that Tribunal are now fully managed by the Office of the Prosecutor of the Mechanism. In the coming months, the received files will be processed and relevant policies will be applied.

VI. Management

A. Overview

40. The Office of the Prosecutor is committed to managing its staff and resources in line with the Security Council's instructions that the Mechanism should be a small, temporary and efficient structure.

41. An important development in this respect was the implementation during the reporting period of the "one office" approach to integrate the staff and resources of the Offices of the Prosecutor of the Mechanism and that of the International Tribunal for the Former Yugoslavia. Under this policy, all prosecution staff will now be available to "double-hat" so they can be flexibly assigned to work related to either the Mechanism or the Tribunal depending on operational requirements and their case-related knowledge. Resources of both Offices will also be flexibly deployed where needed. The Prosecutor has further integrated the management teams in order to best support him in carrying out the responsibilities of both institutions.

42. The "one office" approach has already generated efficiencies and overall cost savings. For example, following the judgment of the Appeals Chamber of the International Tribunal for the Former Yugoslavia in December 2015 ordering a retrial in the *Stanišić and Simatović* case, the Office was able to reassign existing staff of both the Mechanism and the Tribunal with case-specific knowledge to the pre-trial work in this case. By reassigning existing staff, without conducting recruitment exercises, the Office of the Prosecutor was able to prevent possible delays in commencing the necessary work. Moreover, as this reassignment has so far been absorbed within existing resources, the Office was able to respond to this unforeseen development while reducing overall costs. In addition, the Mechanism Office of the Prosecutor was able, within existing resources, to provide significant support to the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia in the *Karadžić* and *Mladić* cases.

43. During the reporting period, the Office of the Prosecutor began an intense period of case activity with one trial (*Stanišić and Simatović*) and two appeals (*Karadžić* and *Šešelj*). Consistent with the Security Council's instruction, the Office successfully utilized rosters of qualified staff with experience at the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia to quickly recruit the necessary staff for the two appeals, while, as noted, staffing for the trial has been temporarily drawn from the existing resources of the Offices of the Prosecutor of the Mechanism and the Tribunal. These steps have enabled the Office to promptly and efficiently begin its preparations and commence its work on these cases.

44. The Office of the Prosecutor notes the projections for the duration of Mechanism functions prepared by the Mechanism President and provided in his

report. In relation to trial and appeal activities, the Office is committed to continuing to meet all deadlines imposed, and will further endeavour to explore all reasonable options within its control to expedite the completion of this work.

B. Audit reports

45. In its audit report 2015/137 dated 10 November 2015 on assistance to national jurisdictions, the Office of Internal Oversight Services recommended that the Office of the Prosecutor, in conjunction with the Information Technology Services Section and the Mechanism Archives and Records Section, should develop a consolidated, comprehensive database for managing requests for assistance received from national jurisdictions. The Mechanism accepted this recommendation. A prototype solution has been developed and is being tested. The Office continues to liaise with the Information Technology Services Section and the Mechanism Archives and Records Section to move the project forward.

VII. Conclusion

46. The reporting period saw the commencement of one trial and two appeals before the Mechanism, both of which were transferred from the Tribunal for the Former Yugoslavia in accordance with the statute of the Mechanism and the transitional arrangements. The Office of the Prosecutor quickly commenced its work on these cases in a cost-efficient manner, utilizing the roster and "double-hatting" arrangements prescribed by the Security Council. The Office will continue to allocate and manage its resources flexibly in order to comply with all imposed deadlines.

47. Efforts to locate and arrest the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda continued. The Office of the Prosecutor is further conducting an overall review of its tracking efforts to date in order to ensure that appropriate priorities are in place and that tracking operations are directed to achieving those priorities. State cooperation will be essential to successfully locate and arrest the remaining fugitives.

48. In all of its endeavours, the Office of the Prosecutor relies upon the support of the international community and especially of the Security Council.